

1 UNITED STATES BANKRUPTCY COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3 RIVERSIDE DIVISION

4 In re:) Case No. RS 05-10109 PC
5)
6 BILL J. and JAMIE L. JUAREZ,) Chapter 7
7)
8) Date: April 25, 2005
9) Time: 9:30 a.m.
Debtor(s).) Place: U.S. Bankruptcy Court
Courtroom 303
3420 Twelfth Street
Riverside, CA 92501

10 *At the above captioned date and time, the court considered Debtor's Motion for*
11 *Authorization to Redeem Property (2003 Chevrolet Suburban). The following is the text of the*
12 *court's final ruling which is attached to the minutes of the hearing. Because the court has*
13 *determined that the disposition constitutes a "reasoned explanation" for the court's decision*
14 *within the scope of the E-Government Act of 2002, the final ruling is posted to the court's*
15 *Internet site, www.cacb.uscourts.gov, in a text-searchable format as required by the act. The*
16 *official record remains with the minutes of the hearing.*

17 **FINAL RULING**

18 Debtor has filed a motion for authorization to redeem certain personal property pursuant
19 to 11 U.S.C. Section 722 and L.B.R. 9013-1. General Motors Acceptance Corporation
20 ("GMAC") has filed a written response in opposition to the motion pursuant to L.B.R. 9013-
21 1(a)(7)(A).
22

23 Section 722 states that an individual debtor may redeem tangible personal property
24 intended primarily for personal, family or household use, from a lien securing a dischargeable
25 consumer debt, if such property is exempted under section 522 or has been abandoned under
26 section 544, by paying the holder of such lien the amount of the allowed secured claim. 11
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1 U.S.C. Section 722.

2 Debtor seeks to redeem a 2003 Chevrolet Suburban 1500 Sport Utility Vehicle by
3 paying GMAC the sum of \$15,305 in full satisfaction of its secured claim. GMAC objects,
4 alleging that debtor's evidence of valuation is not properly authenticated. GMAC also points to
5 Associates Commercial Corp. V. Rash, 520 U.S. 953 (1997), arguing that the court should
6 determine redemption value based upon the retail value of the vehicle, not trade-in value, which
7 GMAC claims is \$27,425. However, the Rash "replacement value standard," which is applied
8 in determining whether a chapter 13 debtor can cram down a proposed plan over the objection
9 of a secured creditor, is not the appropriate measure of collateral value in a redemption under
10 section 722. In re Ard, 280 B.R. 910, 915 (Bankr. S.D. Ala. 2002); In re Dunbar, 234 B.R. 895,
11 898 (Bankr. E.D. Tenn. 1999).

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14 The court takes judicial notice that the subject property was listed in Schedule D having
15 a value of \$19,000. The court also takes judicial notice that the debtor did not claim an
16 exemption in the subject property in Schedule C. However, the trustee has filed a no asset
17 report evidencing an intent to abandon the subject property upon a closing of the case.

18
19 Section 506(a) defines the term "allowed secured claim," and states that the value of
20 collateral securing the claim "be determined in light of the purpose of the valuation and of the
21 proposed disposition or use of such property . . ." 11 U.S.C. Section 506(a). Because the
22 purpose of Section 722 is to allow the debtor to avoid having to pay the replacement cost of
23 personal property intended primarily for personal, family or household use, courts have
24 determined that the wholesale or liquidation value of the property best approximates the amount
25 the creditor will lose if the debtor retains the property. *See, e.g., Triad Fin. Corp. v.*

1 Weathington (In re Weathington), 254 B.R. 895, 901 (6th Cir. BAP 2000); In re Zell, 284 B.R.
2 569, 573 (Bankr. D. Md. 2002); In re Ballard, 258 B.R. 425, 428 (Bankr. C.D. Ill. 1999).

3 With respect to value, the court takes judicial notice that the subject vehicle with 57,000
4 miles is listed by Kelley Blue Book on its website at www.kbb.com as having a trade-in value
5 of \$15,705 in good condition and \$13,620 in fair condition. The “trade in value,” according to
6 Kelley Blue Book represents the value of the vehicle, less the costs assumed by the dealer for
7 making the vehicle ready for sale, advertising, sales commissions, arranging financing and
8 insurance and standing behind the vehicle for any mechanical or safety problems. For purposes
9 of this motion, the “trade in value” appears to reflect an amount which the secured creditor
10 would expect to recover upon repossession and a commercially reasonable disposition of the
11 property.
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14 GMAC argues, in the alternative, that the estimated “trade in value” of the vehicle is
15 \$23,975 based upon a N.A.D.A. Official Used Car Guide dated January 13, 2005. However, the
16 valuation used by GMAC is based on a vehicle with 30,001 miles, not 57,000 miles.
17 Furthermore, GMAC’s valuation does not state whether the “trade in value” given is based on a
18 vehicle in poor, fair, good or excellent condition.
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20 Based upon the foregoing, the court finds that the redemption value of the subject
21 property is \$15,705. Upon debtor’s payment of \$15,705 in a lump sum, GMAC shall release its
22 security interest and lien in and to the subject property, and deliver forthwith the original
23 certificate of title or other document evidencing the release of lien to the debtor.
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